

ARKANSAS JUDICIAL ELECTIONS

2010

Administrative Office of the Courts
625 Marshall/ Justice Building
Little Rock, AR 72201
(501) 682-9400

TABLE OF CONTENTS

Helpful Addresses and Phone Numbers	2
Nonpartisan Judicial Offices	
Terms of Judicial Offices	3
Qualifications for Judicial Offices	3
Filing Procedures	
Nonpartisan Candidates for Supreme Court, Court of Appeals, and Circuit Judge ...	5
Nonpartisan Candidates for District Judge	5
Alternative Ballot Access for Judicial Offices	5
Write-in Candidates for Supreme Court, Court of Appeals, and Circuit Judge	7
Write-in Candidates for District Judge	7
Filing Fees	7
Names Used on Ballot	7
Political Practices Act & Pledge	8
Candidate Exploratory Committee	8
Campaign Finance and Disclosure Requirements	
General Requirements	9
Requirements for Judicial Candidates	10
Who Must File Financial Reports	11
What Financial Reports to File	11
Where to File Financial Reports	12
When to File Financial Reports	12
Filing Facts	15
Retirement of Campaign Debt	16
Surplus	17
Retention of Financial Records	17
Internal Revenue Service Filings	17
State Campaign Finance Contribution Limits	17
2010 Filing and Financial Reporting Calendar	18
Campaign Ethics	32
Canon 4 of the Arkansas Code of Judicial Conduct	34
Procedural Rules for the Arkansas Judicial Ethics Advisory Committee	44

HELPFUL ADDRESSES AND PHONE NUMBERS

Questions on candidate qualifications, filing procedures, or to obtain reporting forms:

Charlie Daniels (See Candidate Information Election 2010
Secretary of State published by Arkansas Secretary of State)
Elections Division Available on the web at:
State Capitol, Room 026 www.sos.arkansas.gov/elections.html
Little Rock, AR 72201
1-800-482-1127; (501) 682-5070
E-mail: "electionsemail@sos.arkansas.gov"

Questions on campaign financing and disclosure requirements:

Arkansas Ethics Commission (See 2010 Reporting Calendar published by
910 West Second Street, Suite 100 the Arkansas Ethics Commission)
P.O. Box 1917
Little Rock, AR 72203
1-800-422-7773; (501) 324-9600
www.arkansasethics.com

Questions on filing fees:

State Board of Election Commissioners
501 Woodlane, Suite 401N
Little Rock, AR 72201
1-800-411-6996; (501) 682-1834
www.arkansas.gov/sbec

Questions on district judicial races:

Arkansas Municipal League
301 West Second Street
North Little Rock, AR 72115
(501) 374-3484
www.arml.org

Questions on Arkansas Code of Judicial Conduct:

Judicial Ethics Advisory Committee
Attn: David Stewart
323 Center Street, Suite 1060
Little Rock, AR 72201
1-800-482-5850; (501) 682-1050
www.arkansas.gov/jeac

Questions Regarding this AOC Publication

Keith Caviness
Krystal Mann
(501) 682-9400

NONPARTISAN JUDICIAL OFFICES

Ark. Code Ann. §§ 7-10-101-102

Terms of Judicial Offices

Supreme Court:	8 year term (Amendment 80, §16)
Court of Appeals:	8 year term (Amendment 80, §16)
Circuit:	6 year term (Amendment 80, §16)
District:	4 year term (Amendment 80, §16)

Qualifications for Judicial Offices

- **Supreme Court Justice and Court of Appeals Judge**

Must be a U. S. citizenAmend. 51 § 6

Must be an Arkansas resident.....Amend. 51 § 6

Must be a minimum of eighteen years of age.....Amend. 51 § 6

Must be lawfully registered to vote.....Art. 3 § 1 as amended by Amend. 51 § 6; Amend. 85

Must have been a licensed attorney of the state for at least eight years immediately preceding the date of assuming office.....Amend. 80 § 16

Must be qualified elector within the geographical area from which chosenAmend. 80 § 16

Must never have been convicted of embezzlement of public money, bribery, forgery, or other infamous crime.....Art. 5 § 9

Must not file as a candidate for non-judicial governmental office while holding judicial officeAmend. 80 § 15; Ark. Code Ann. § 16-10-118

Shall not be allowed any fees or perquisites of office, and shall not hold any other office of trust or profit under this state or the U.S., except as authorized by law.....Amend. 80 § 16

Shall not practice law during their terms of office.....Amend. 80 § 14

- **Circuit Judge**

Must be a U. S. citizen.....Amend. 51 § 6

Must be an Arkansas resident.....Amend. 51 § 6

Must be a minimum of eighteen years of age.....Amend. 51 § 6

Must be lawfully registered to vote.....Art. 3 § 1 as amended by Amend. 51 § 6; Amend. 85

Must have been a licensed attorney of the state for at least six years immediately preceding the date of assuming office.....Amend. 80 § 16

Must be qualified elector within the geographical area from which chosen.....Amend. 80 § 16

Must reside within that geographical area at the time of election and during period of service. The geographical area may include any county contiguous to the county to be served when there are no qualified candidates available in the county to be served.....Amend. 80 § 16

Must never have been convicted of embezzlement of public money, bribery, forgery, or other infamous crime.....Art. 5 § 9

Must not file as a candidate for non-judicial governmental office while holding judicial office.....Amend. 80 § 15; Ark. Code Ann. § 16-10-118

Shall not be allowed any fees or perquisites of office, and shall not hold any other office of trust or profit under this state or the U.S., except as authorized by law.....Amend. 80 § 16

Shall not practice law during their terms of office.....Amend. 80 § 14

- **District Judge**

Must be a U. S. citizen.....Amend. 51 § 6

Must be an Arkansas resident.....Amend. 51 § 6

Must be a minimum of eighteen years of age.....Amend. 51 § 6

Must be lawfully registered to vote.....Art. 3 § 1 as amended by Amend. 51 § 6; Amend. 85

Must have been a licensed attorney of the state for at least four years immediately preceding the date of assuming office.....Amend. 80 § 16; Ark. Code Ann. § 16-17-104; Ark. Code Ann. § 16-17-209

Must not file as a candidate for non-judicial governmental office while holding judicial office.....Amend. 80 § 16; Ark. Code Ann. § 16-10-118

Must be qualified elector within the geographical area from which chosen.....Amend. 80 § 16; Ark. Code Ann. § 16-17-103; Ark. Code Ann. § 16-17-209

Must reside within that geographical area at the time of election and during period of service. The geographical area may include any county contiguous to the county to be served when there are no qualified candidates available in the county to be served.....Amend. 80 § 16; Ark. Code Ann. § 16-17-103; Ark. Code Ann. § 16-17-209

Must never have been convicted of embezzlement of public money, bribery, forgery, or other infamous crime.....Art. 5 § 9

Shall not be allowed any fees or perquisites of office, and shall not hold any other office of trust or profit under this state or the U.S., except as authorized by law.....Amend. 80 § 16

FILING PROCEDURES

Nonpartisan Candidates for Supreme Court Justice, Court of Appeals Judge, and Circuit Judge

- Pay filing fee to the Secretary of State
- File the Political Practices Pledge with the Secretary of State's Office at the same time as paying filing fee

Ark. Code Ann. § 7-6-102

Ark. Code Ann. § 7-10-103

Nonpartisan Candidates for District Judge

- Pay filing fee to the county clerk
- File the Political Practices Pledge with the county clerk at the same time as paying filing fee

Ark. Code Ann. § 7-6-102

Ark. Code Ann. § 7-10-103

Alternative Ballot Access (Petition)

- First day for nonpartisan judicial candidates to begin circulating petitions is 11/29/2009.

- First day to file petitions for a nonpartisan judicial office is Noon on 1/14/2010.
- Last day to file petitions for a nonpartisan judicial office is Noon on 1/28/2010.
- Supreme Court, Court of Appeals, and Circuit Court petitions shall be filed with the Secretary of State.
- District Court petitions shall be filed with the applicable county clerk or clerks.
- Supreme Court candidates shall file petitions signed by at least 10,000 qualified electors or three percent of the qualified electors residing within the state, whichever is the lesser.
- Supreme Court candidates file the Political Practices Pledge with the Secretary of State at time of filing petition.
- Court of Appeals candidates shall file petitions signed by at least three percent of the qualified electors residing within the court of appeals district, but in no event shall more than 2,000 signatures be required.
- Court of Appeals candidates file the Political Practices Pledge with the Secretary of State at time of filing petition.
- Circuit Judge candidates shall file petitions signed by at least three percent of the qualified electors residing within the judicial circuit but in no event shall more than 2,000 signatures be required.
- Circuit Judge candidates file the Political Practices Pledge with the Secretary of State at time of filing petition.
- District Judge candidates shall file petitions signed by at least one percent of the qualified electors residing within the district, but in no event shall more than 2,000 signatures be required.
- District Judge candidates file the Political Practices Pledge with the county clerk at the time of filing petition.
- The total number of votes cast for Governor in 2006 in the state, in any court of appeals district, in any circuit court district, or in any district court district, as the case may be, shall determine the applicable number of qualified electors for petition signature purposes.

Ark. Code Ann. § 7-6-102

Ark. Code Ann. § 7-10-103

2010 Arkansas Judicial Elections

Write-in Candidates

For Supreme Court, Court of Appeals, and Circuit Court Positions:

- File written notice of intent with the county board of election commissioners and the Secretary of State no later than 3/19/2010.
- File the Political Practices Pledge at the same time and place as filing a notice of intent.

For District Court Positions:

- File written notice of intent with the county board of election commissioners and the county clerk no later than 3/19/2010.
- File the Political Practices Pledge at the same time and place as filing a notice of intent.

Ark. Code Ann. § 7-10-103

Filing Fees

Filing fees are established by the State Board of Election Commissioners.

Ark. Code Ann. § 7-10-103

The filing fees are expressed as a percentage of the salary established by the General Assembly for the fiscal year in which the candidate begins serving in the office.

Supreme Court Chief Justice and Associate Justices 6% of annual salary

Court of Appeals Judges 5% of annual salary

Circuit Judges 4% of annual salary

District Judges 3% of annual salary

Names Used on Ballot

Arkansas Code Annotated § 7-7-305 (c)(1)(B) states that “[a] person may only use as the prefix the title of a judicial office in an election for a judgeship if the person is currently serving in a judicial position to which the person has been elected.”

POLITICAL PRACTICES ACT & PLEDGE

Under Ark. Code Ann. § 7-6-102, all candidates are required to file a Political Practices Pledge stating that they will comply with Arkansas law regarding unlawful election activities and their penalties as described in Ark. Code Ann. §§ 7-1-103-104, 7-3-108, 7-6-101, 7-6-103, and 7-6-104. Failure to file the pledge is grounds for prohibiting a candidate's name from being placed on the ballot.

The pledge must contain the following language:

I hereby certify that I have never been convicted of a felony in Arkansas or in any other jurisdiction outside of Arkansas.

A candidate whose record has been expunged may certify that he or she was never convicted if that candidate presents a certificate of expungement from the court in which the candidate was convicted.

WHERE TO FILE:

- Candidates for Supreme Court Justice, Court of Appeals Judge, and Circuit Judge must file the pledge with the Secretary of State.
- Candidates for District Judge must file with the County Clerk.

WHEN TO FILE:

- Nonpartisan judicial candidates paying filing fees must file the pledge at the same time the filing fee is paid.
- Alternative ballot access candidates must file the pledge at the same time that petitions for nomination are filed.
- Write-in candidates must file the pledge at the time of filing the notice to be a write-in candidate.

The Political Practices Pledge may be obtained from the Secretary of State's Office.

CANDIDATE EXPLORATORY COMMITTEE

An Exploratory Committee is a person or organization that receives contributions to be held for transfer to the campaign of a single candidate in an election. It is not an organized political party or the candidate's own campaign committee.

The Exploratory Committee must file Registration and Contribution Reports. These reports are discussed in more detail in the section below entitled "Campaign Finance

and Disclosure Requirements.” Reporting forms are available at the office of the Secretary of State.

Ark. Code Ann. §§ 7-6-201 and 7-6-216

CAMPAIGN FINANCE AND DISCLOSURE REQUIREMENTS

General Requirements

Generally, Arkansas laws governing campaign finance (which are found at Ark. Code Ann. § 7-6-201 *et seq.*) impose the following requirements:

- Campaign contributions, including a candidate's personal funds, are subject to disclosure.
- All contributions must be made either to the candidate or the candidate's committee.

See Arkansas Judicial Code of Conduct Canon 4.1 (A)(8) which states that a judicial candidate shall not personally accept campaign contributions.

- Candidates are prohibited from accepting a cash contribution in excess of \$100.00 or making an expenditure in cash in excess of \$50.00 except that the filing fee may be paid in cash if properly reported as such.

Ark. Code Ann. § 7-6-204

- The maximum allowable contribution from any person, except for the candidate himself, is \$2,000 per candidate per election.

Ark. Code Ann. § 7-6-203

- The general election and run-off election are each considered separate elections.

Ark. Code Ann. § 7-6-201 (7)

- These caps apply also to any person acting in the candidate's behalf.

Ark. Code Ann. § 7-6-203 (a)(1)(A)

See State Campaign Finance Contribution Limits on page 17.

- No candidate may accept contributions from non-registered or non-approved political action committees (“PACs”), and it is the candidate's responsibility to determine eligibility prior to accepting any contribution.
- Anonymous contributions cannot exceed \$50.00 in a calendar year, and any anonymous contributions in excess of this amount must be turned over to the Secretary of State for deposit in the general treasury.

Ark. Code Ann. § 7-6-205

- A candidate shall not take any campaign fund as personal income or as income for his or her spouse or dependent children.
 - However, an opposed candidate is not prohibited from employing his or her spouse or dependent children as campaign workers.
 - However, an opposed candidate is allowed to use campaign funds as personal income if he or she has taken a leave without pay from primary employment during the campaign in which case he/she may take only up to the amount of employment income lost.
 - The candidate who uses campaign funds as income may elect to treat the campaign funds as a loan from the campaign fund to the candidate to be paid back to the campaign fund by the candidate.
- It is unlawful for a candidate or an exploratory committee to solicit or accept campaign contributions more than two years before the first election at which the candidate seeks nomination or election.

Ark. Code Ann. § 7-6-203

Requirements for Judicial Candidates

In addition to the general requirements, candidates for judicial offices must also comply with the Arkansas Code of Judicial Conduct which, in some instances, imposes more stringent requirements. Canon 4.1 (A)(8) states that a candidate shall not personally solicit or accept campaign contributions, and in the event any funds are personally received, they shall be promptly turned over to the campaign committee. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate. Financial support is to be solicited by the campaign committee. The purpose of the committee is to isolate the candidate from involvement in fund-raising. The candidate at the outset of the campaign is required to instruct the committee to solicit or accept contributions that are permitted by law and reasonable under the circumstances.

The committee can solicit funds no earlier than 180 days before an election, and all committee solicitations must cease no later than 45 days after the last contested election in which the candidate appears. Funds received prior to the 180-day period or after the 45-day period are to be returned to the contributor.

See page 34 for the full text of Canon 4.

Contributors must be given notice if funds are solicited to retire a campaign debt.

Ark. Code Ann. § 7-6-219(b)

Who Must File Financial Reports

Any candidate running for elective office must file certain reports, and a candidate's exploratory committee must make a separate filing.

Ark. Code Ann. §§ 7-6-207-7-6-216

What Financial Reports to File

Campaign Contribution and Expenditure Reports. Any candidate with contributions or expenditures over \$500.00 in any election must file Campaign Contribution and Expenditure Reports ("CCE"). In calculating the amount of contributions or expenditures, the amount of the filing fee from the candidate's personal funds is not considered. The Campaign Contribution and Expenditure Report records the names of the individuals or businesses that financially support the candidate, and accounts for campaign expenditures.

Ark. Code Ann. § 7-6-207

These reports are available from the Secretary of State or County Clerk.

Statement of Financial Interest. The Statement of Financial Interest ("SFI") requires candidates to disclose personal income information about themselves and their spouses.

Ark. Code Ann. § 21-8-701

Registration and Contribution Reports. The Candidate's Exploratory Committee must file Registration and Contribution Reports. These reports disclose information about the committee and list contributions received.

Ark. Code Ann. § 7-6-207

Forms are available from the Secretary of State.

Where to File Financial Reports

<u>Office</u>	<u>CCE</u>	<u>SFI</u>
Supreme Court	Secretary of State	Secretary of State
Court of Appeals	Same as above	Same as above
Circuit Court	Same as above	Same as above
District Court	County Clerk	City Clerk

Exploratory Committee's Registration and Contribution Reports for all offices must be filed with the Secretary of State.

Ark. Code Ann. § 7-6-207 (Campaign Contribution and Expenditure Reports)
Ark. Code Ann. § 21-8-703 (Statement of Financial Interest)

When to File Financial Reports

Supreme Court, Court of Appeals, and Circuit Court
See Ark. Code Ann. § 7-6-207

District Court
See Ark. Code Ann. §§ 7-6-208-209

See the Filing and Financial Reporting Calendar on page 18 for specific filing dates

SUPREME COURT, COURT OF APPEALS, AND CIRCUIT COURT CANDIDATES:

Registration and Contribution Reports. The Exploratory Committee must file the Registration Form within 15 days after accepting contributions exceeding \$500.00 during a calendar year. Contribution and Expenditure Reports are filed monthly within 30 days of the end of each month. The final monthly report must be filed within 30 days after the end of the month in which the committee either transfers its contributions to a candidate's campaign or no longer accepts contributions. The committee shall not accept contributions after the filing of a final report.

Ark. Code Ann. § 7-6-216

Statement of Financial Interest. The Statement of Financial Interest must be filed by January 31 of each year except that a candidate for elective office shall file the statement of financial interest for the previous year on the first Monday following the close of the period to file as a candidate for the elective office.

Ark. Code Ann. § 21-8-701

Monthly Campaign Contribution and Expenditure Reports. The initial Campaign Contribution and Expenditure Report must be filed within 15 days after the end of

the quarter in which the total contributions or expenditures exceed \$500.00. Beginning with the month of January in the calendar year of the election, the candidates, who have exceeded the \$500.00 threshold, must file a monthly report within 15 days of the end of each month until the election.

Ark. Code Ann. § 7-6-207

Pre-Election Reports. No later than 7 days before any election, candidates must file a pre-election report covering all contributions received and expenditures made between the period covered by the previous report and the 10-day period before the election. This report must be received by the due date. It is deemed filed when it is received - not the date of the postmark. No monthly report is required to cover months in which a pre-election report is filed, but those days should be carried forward and included in the next monthly report or the final monthly report. Unopposed candidates are not required to file the 10-day pre-election report.

Ark. Code Ann. § 7-6-207

Final Monthly Reports. The Final Monthly Report is due no later than thirty days after the end of the month in which the candidate's name has appeared on the ballot in any election, covering all contributions received and expenditures made that have not been disclosed on reports previously required to be filed. A final report is required regardless of whether a candidate has received contributions or made expenditures in excess of \$500.00. The final report shall also indicate which option was used to dispose of any surplus of campaign funds, the amount of funds disposed of by the candidate, and the amount of funds retained by the candidate. In the case of a primary or run-off election, days occurring after the date of such election shall be carried forward and included in the next monthly report.

Ark. Code Ann. § 7-6-207

Quarterly Reports. If contributions or expenditures continue after the final monthly report, this information must be included in a quarterly report due April 15, July 15, October 15, and/or January 15. These reports continue in years in which the person's name does not appear on the ballot.

Ark. Code Ann. § 7-6-207

- *Reports Not Required*

- A candidate who has not received or made expenditures in excess of \$500 shall not be required to file any reports other than the final report.
- A candidate who is unopposed is not required to file the 10 day pre-election report.

Ark. Code Ann. § 7-6-207

Withdrawal as Candidate. A final report of all contributions received and expenditures made that have not been disclosed on reports previously required to be filed is due no later than thirty days after the end of the month in which a candidate withdraws from a campaign.

- If a candidate withdraws from the campaign, the candidate shall notify the Secretary of State in writing of the withdrawal.

Ark. Code Ann. § 7-6-207

DISTRICT COURT CANDIDATES

Registration and Contribution Reports. The Exploratory Committee must file the Registration Form within 15 days after accepting contributions exceeding \$500.00 during a calendar year. Contribution and Expenditure Reports are filed monthly within 30 days of the end of each month. The final monthly report must be filed within 30 days after the end of the month in which the committee either transfers its contributions to a candidate's campaign or no longer accepts contributions. The committee shall not accept contributions after the filing of a final report.

Ark. Code Ann. § 7-6-216

Statement of Financial Interest. The Statement of Financial Interest must be filed by January 31 of each year except that a candidate for elective office shall file the statement of financial interest for the previous year on the first Monday following the close of the period to file as a candidate for the elective office.

Ark. Code Ann. § 21-8-701

Pre-Election Report. A Pre-Election Report is due 7 days prior to any election in which the candidate's name appears on the ballot, covering all contributions received and expenditures made between the period covered by the previous report, if any, and the period 10 days before the election.

Ark. Code Ann. §§ 7-6-208-209

Final Report. A Final Report is due 30 days after any election in which the candidate's name appears on the ballot, covering all contributions received and expenditures made that have not been disclosed on reports previously required to be filed. The final report shall also indicate which option was used to dispose of any surplus of campaign funds, the amount of funds disposed of by the candidate, and the amount of funds retained by the candidate.

Ark. Code Ann. §§ 7-6-208-209

Supplemental Reports. A Supplemental Report is due 30 days after the receipt of a contribution or the making of an expenditure after the preparation of the final report.

Ark. Code Ann. §§ 7-6-208-209

● *Reports Not Required:*

- Candidates who are unopposed in any election and agree not to solicit further campaign contributions by filing an affidavit declaring such an agreement are not required to file the pre-election report prior to those unopposed elections.
- A candidate, who has not received contributions, or made expenditures in excess of \$500, shall not be required to file a pre-election report.

Ark. Code Ann. § 7-6-203(h)(2) affidavit provision

Ark. Code Ann. §§ 7-6-208-209

Withdrawal as Candidate. No later than 30 days after the end of the month in which the candidate has withdrawn, a final report of all contributions received and expenditures made that have not been disclosed on reports previously required to be filed is due. If a candidate withdraws from the campaign, the candidate shall notify the county clerk in writing of the withdrawal.

Ark. Code Ann. §§ 7-6-208-209

Filing Facts

All reports shall be filed on the forms furnished by the Secretary of State, except that computer-generated contribution and expenditure reports shall be accepted by the Secretary of State and the Arkansas Ethics Commission provided that all of the requisite elements are included.

The Secretary of State will accept the filing of reports by fax provided that the original is received by the Secretary of State within ten days of the date of faxing. The Secretary of State may receive reports in a readable electronic format, which is acceptable to the Secretary of State, and approved by the Arkansas Ethics Commission.

Ark. Code Ann. § 7-6-207

There is no such language regarding fax or electronic filing of reports with the county clerk by candidates for district judge.

Ark. Code Ann. §§ 7-6-208-209

When a due date falls on a Saturday, Sunday, or holiday, the report shall be due the next business day.

Ark. Code Ann. § 7-6-225

For Supreme Court, Court of Appeals, and Circuit Court candidates, the postmark date determines the date of filing except for pre-election reports, which must be received by the due date.

Ark. Code Ann. § 7-6-207

For District Court candidates, no later than fourteen days after the deadline for filing for office, the county clerk shall notify each candidate in person or by mail of the deadlines for filing the ten-day pre-election and final reports required and, at that time, furnish each candidate with the appropriate forms and instructions for complying with the deadlines.

Ark. Code Ann. §§ 7-6-208-209

If notice is sent by mail, then the notice shall be postmarked within fourteen days after the deadline for filing for office.

Ark. Code Ann. §§ 7-6-208-209

Retirement of Campaign Debt

If candidates have a debt remaining, they may solicit funds and hold fund-raisers to retire the debt. All contributions are attributed to the previous campaign and all campaign contribution limits apply. All potential contributors must be notified that funds are being solicited for the purpose of retiring the campaign debt.

A person shall file a campaign contribution and expenditure report concerning a campaign debt if, since the last report concerning the debt, the person has received cumulative contributions in excess of \$500.00. The report shall be filed no later than fifteen days after a calendar quarter in which a report becomes required. No report is required in any calendar quarter in which the cumulative contribution or cumulative expenditure limit has not been exceeded since the person's last report.

Ark. Code Ann. § 7-6-219.

Nonpartisan judicial candidates are subject to the limitations of Canon 4 discussed above on pages 10 and 11.

Surplus

Canon 4.4 (C) of the Arkansas Code of Judicial Conduct provides that there are two options with respect to a campaign surplus: (1) return to the contributors or (2) pay to the State Treasurer.

Unopposed candidates for nonpartisan judicial office who file an affidavit agreeing not to solicit further campaign contributions may dispose of a campaign surplus prior to a general election after the deadlines have passed to declare as a filing-fee candidate, petition candidate, or write-in candidate.

Ark. Code Ann. § 7-6-203(h)(2)

Retention of Financial Records

Records of contributions and expenditures must be kept for a period of four years.

Ark. Code Ann. § 7-6-206

Internal Revenue Service (IRS) Filings

Judicial campaign committees, unless exempted, are required to file IRS Form 8871, *Political Organization Notice of Section 527 Status*, with the IRS. Copies of the IRS form/instructions can be downloaded from the IRS Web site, www.irs.gov under the "Forms and Publications" section. The final rule, Rev. Rule 2000-49, was published in the Internal Revenue Bulletin as Revenue Ruling 2000-49, on October 30, 2000.

STATE CAMPAIGN FINANCE CONTRIBUTION LIMITS

Contributor

Person
Corporation, Association,
Partnership, and other such groups

Contribution Limitations

\$2,000 per candidate per election

Ark. Code Ann. § 7-6-203

2010 FILING AND FINANCIAL REPORTING CALENDAR

(Please note that all dates, which are outlined in the following calendar, have been provided by the Arkansas Secretary of State's Office and the Arkansas Ethics Commission.)

Reporting requirements are triggered upon the receipt or expenditure of more than \$500. Receipts over \$50 must be itemized as must expenditures over \$100.

NOTE: Pursuant to Canon 4.4 B (2) of the Arkansas Code of Judicial Conduct, the earliest date a candidate's campaign committee may solicit contributions is November 18, 2009.

December 2009

11/29/2009 First day for nonpartisan judicial candidates not paying a filing fee to begin circulating petitions

Ark. Code Ann. § 7-10-103(c)(1)(B)

- **60 days prior to filing deadline (1/28/2010)**

January, 2010

01/14/2010 Noon—First day for nonpartisan judicial candidates to file petitions for ballot access in nonpartisan judicial general election without paying filing fee

Ark. Code Ann. § 7-10-103(c)(1)(A)

- **46 days before first weekday in March**

01/15/2010 4th Quarter report of contributions and expenditures due for period November 19, 2009 to December 31, 2009. Reporting requirement applies to Supreme Court, Court of Appeals, and Circuit Court candidates

Ark. Code Ann. § 7-6-207(a)(1)(A)

01/28/2010 12:00 Noon—Deadline for nonpartisan judicial candidates to file petitions for ballot access in nonpartisan judicial general election without paying a filing fee

Ark. Code Ann. § 7-10-103(c)(1)(A)(i)

- **32 days before first weekday in March**

01/29/2010 Deadline for Secretary of State (for state and district candidates) and the county board of election commissioners (for county and municipal offices)

to review candidate names and titles on political practices pledges for nonpartisan judicial candidates filing by petition

Ark. Code Ann. § 7-7-305(c)(2)

- **One business day after filing deadline**

February, 2010

02/01/10 Statement of Financial Interest is due for all incumbent officeholders
Covers 2009 calendar year

Ark. Code Ann. § 21-8-701(c)

- **Must be filed on or before January 31 of each year (1/31/10 is a Sunday)**

02/01/2010 Deadline for nonpartisan judicial candidates filing by petition to file Statement of Financial Interest unless an incumbent officeholder filed the statement of financial interest by January 31 of the year in which the election is held

Ark. Code Ann § 21-8-701

- **First Monday following the close of the period to file as a candidate for elective office**

02/01/2010 Statement of Financial Interest for calendar year 2009 due from non-incumbent candidates whose names have been placed on the ballot under the provisions of Ark. Code Ann. § 7-10-103(c)

02/02/2010 Deadline for Secretary of State or the county clerk to notify nonpartisan judicial candidates filing by petition of failure to file a signed political practices pledge. Notice shall include a copy of the form and be sent by certified mail.

Ark. Code Ann. § 7-6-102(e)(2)(A)

- **Within 5 days from when the pledge is required to be filed**

02/11/2010 Deadline for county clerk to notify each nonpartisan judicial candidate filing by petition of filing deadlines for 10-day pre-election report and final report and to furnish the appropriate forms and instructions

Ark. Code Ann. § 7-6-208(b)(3)

- **14 days after filing deadline for office**

02/16/2010 January monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period January 1-31
Ark. Code Ann. § 7-6-207(a)(1)(B)

02/18/2010 Deadline for Secretary of State to provide federal regulations to county clerks concerning voting by overseas citizens and uniform service personnel

Ark. Code Ann. §7-5-406(b)(2)

- **90 days before the nonpartisan judicial general election (5/18/2010)**

March, 2010

03/01/2010 Noon - Filing period opens for nonpartisan judicial candidate paying filing fees

Ark. Code Ann. § 7-10-103(b)(2)(B)

- **First weekday in March at noon**

03/08/2010 Noon - Deadline to file as a nonpartisan judicial candidates paying filing fees

Ark. Code Ann. § 7-10-103(b)(2)(B)

- **Seven days after the first weekday in March at noon**

03/08/2010 Deadline for a candidate to notify either the Secretary of State or the county clerk of a desire to withdraw from a race. Must be in writing, signed by the candidate, and acknowledged before an officer authorized to take acknowledgements.

Ark. Code Ann. § 7-7-304

- **70 days before the Nonpartisan Judicial general election**

03/09/2010 Deadline for Secretary of State (for state and district offices) and the county board of election commissioners (for county and municipal offices) to review candidate names and titles on political practices pledges for nonpartisan judicial candidates paying filing fees

Ark. Code Ann. § 7-7-305(c)(2)

- **One business day after the filing deadline**

- 03/15/2010** Ballot positions determined by lot at a public meeting of the county board of election commissioners

Ark. Code Ann. § 7-5-207 (c)(1)

- **65 days prior to the nonpartisan judicial general election**

- 03/15/2010** Deadline for party candidate and nonpartisan judicial candidates paying filing fees to file the SFI unless the incumbent officeholder filed the statement of financial interest by January 31 of the year in which the election is held

Ark. Code Ann. § 21-8-701

- **First Monday following the close of the period to file as a candidate for elective office**

- 03/15/2010** February monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period February 1-28

Ark. Code Ann. § 7-6-207(a)(1)(B)

- 03/15/2010** Statements of Financial Interest for calendar year 2009 due from non-incumbent candidates whose names have been placed on the ballot pursuant to the filing fee provisions of Ark. Code Ann. § 7-10-103

Ark. Code Ann. § 21-8-701

- **First Monday following the close of the period to file as a candidate for elective office**

- 03/19/2010** Deadline for write-in candidates in the nonpartisan judicial general election to file a notice of intent and a political practices pledge with the county board of election commissioners and either the Secretary of State or the county clerk

Ark. Code Ann. § 7-10-103(d)(2)

- **60 days before the nonpartisan judicial general election (5/18/2010)**

- 03/20/2010** Deadline for the Secretary of State (for state and district offices) and the county board of election commissioners (for county and municipal offices) to review write-in candidate names and titles on political practices pledges for the nonpartisan judicial general election

Ark. Code Ann. § 7-7-305 (c)(2)

- **One day following filing deadline**

03/22/2010 Deadline for write-in candidates for the nonpartisan judicial general election to file the SFI unless the incumbent officeholder filed the statement of financial interest by January 31 of the year in which the election is held

Ark. Code Ann. § 21-8-701

- **First Monday following the close of the period to file as a candidate for elective office**

03/22/2010 Deadline for county clerk to notify each nonpartisan judicial candidate including unopposed candidates of filing deadlines for 10-day pre-election and final report and to furnish appropriate forms and instructions

Ark. Code Ann. § 7-6-208(b)(3)

- **14 days after filing deadline for office**

03/22/2010 Statement of Financial Interest for calendar year 2009 due from non-incumbent candidates whose names have been placed on the ballot pursuant to the write-in provisions of Ark. Code Ann. § 7-10-103(d)

Ark. Code Ann. § 21-8-701

- **First Monday following the close of the period to file as a candidate for elective office**

April, 2010

04/02/2010 Deadline for county clerks to notify write-in candidates of filing deadlines for 10-day pre-election report and final report and to furnish appropriate forms and instructions

Ark. Code Ann. § 7-6-208(b)(3)(A)

- **14 days after filing deadline for office**

04/13/2010 Deadline for county board of election commissioners to deliver absentee ballots to the county clerks for nonpartisan judicial general election

Ark. Code Ann. § 7-5-407(a)

- **35 days before the nonpartisan judicial general election**

- 04/15/2010** March monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period March 1-31
- Ark. Code Ann. § 7-6-207(a) (1) (B)
- 04/18/2010** DEADLINE TO APPLY TO REGISTER TO VOTE IN THE NONPARTISAN JUDICIAL GENERAL ELECTION
- Ark. Code Ann. § 7-5-201 (a)
- **30 calendar days prior to the election on 5/18/2010**
- 04/18/2010** Deadline for county election commission to change precinct boundaries and polling sites for the nonpartisan judicial and preferential primary election
- Ark. Code Ann. § 7-5-101 (b)(2)
- **30 days before the nonpartisan judicial general election**
- 04/23/2010** First day to demonstrate voting machines for the nonpartisan judicial general election
- Ark. Code Ann. § 7-5-509(b)
- **Not more than 25 days nor less than 10 days before the election**
- 04/29/2010** Deadline for county board of election commissioners to appoint a sufficient number of election officials for each polling site and other duties
- Ark. Code Ann. § 7-4-107(b)(1)
- **20 days before the nonpartisan judicial general election**
- 04/29/2010** County board of election commissioners to give public notice in a newspaper of general circulation in the county of the date of the election, hours of voting on election day, the places and times for early voting polling sites for holding the elections in the county, the candidates and offices to be elected at that time, and the time and location of opening, processing, canvassing, and counting of ballots.
- Ark. Code Ann. § 7-5-202(a)
- **20 days before the nonpartisan judicial general election**

May, 2010

05/03/20108 Deadline for county board of election commissioners to prepare and post in a public place in its county clerk's office its list of appointed election officials

Ark. Code Ann. § 7-5-202 (b)(2)

- **15 days before the nonpartisan judicial general election**

05/03/2010 Early voting for the nonpartisan judicial general election and the preferential primary election begins

Ark. Code Ann. § 7-5-418 (a)(1)(A)

- **15 days before the election**

05/03/2010 Deadline for county clerks to mail notice to all voters affected by changes in polling sites

Ark. Code Ann. § 7-5-101 (d)(3)

- **15 days before the election**

05/03/2010 First day that a designated bearer shall be allowed to pick up an absentee ballot

Ark. Code Ann. § 7-5-409(h)

- **15 days before the nonpartisan judicial general election**

05/08/2010 Last day for county board of election commissioners to demonstrate voting machines for the preferential primary and the nonpartisan judicial general election

Ark. Code Ann. § 7-5-509(b)

- **10 days before the election**

05/11/2010 If opposed in general election, pre-election report due for general election for Supreme Court, Court of Appeals, and Circuit Court candidates. Covers period April 1-30*

* If this is campaign committee's first report, it covers all campaign activity that has occurred through the closing date of the reporting period.

Ark. Code Ann. § 7-6-207

05/11/2010 If opposed in general election, pre-election report* due for general election for District Judge candidates. This report covers all campaign activity through May 10, 2010

Ark. Code Ann. §§ 7-6-208 - 209

*A candidate's campaign is not required to file a pre-election report if it has not received contributions in excess of \$500. In calculating the amount of contributions received or expenditures made for the purposes of this exception, the payment of the filing fee from the candidate's personal funds shall not be considered as either a contribution or expenditure. Once the \$500 threshold has been met, however, a candidate who has used his or her personal funds to pay the filing fee is required to report same.

05/11/2010 Deadline for county clerks to receive absentee ballot applications by mail or fax for the nonpartisan judicial general election

Ark. Code Ann. § 7-5-403(a)(2)(a)(ii)

- **7 days before the nonpartisan judicial general election**

05/17/2010 If unopposed in general election, April monthly report due for Supreme Court, Court of Appeals, and Circuit Court candidates. Covers period April 1-30

* If this is campaign committee's first report, it covers all campaign activity that has occurred through the closing date of the reporting period

05/13/2010 Deadline for posting election notice at each polling site and publishing in a newspaper of general circulation in the county

Ark. Code Ann. § 7-5-202(b)(1)

- **5 days before the nonpartisan judicial general election**

05/14/2010 Deadline for county to receive updated voter registration information

Amendment 51, §10 of the Arkansas Constitution

- **4 days prior to an election**

05/17/2010 Deadline for county clerk to receive in person or by designated bearer applications for absentee ballots for the nonpartisan judicial general election

Ark. Code Ann. § 7-5-403(a)(2)(A)(i)

- **Closing time 1 day before the nonpartisan judicial general election**

2010 Arkansas Judicial Elections

05/17/2010 Deadline for the voter (except for overseas voters) to personally deliver absentee ballot to the county clerk

Ark. Code Ann. § 7-5-411(a)(3)

- **No later than the close of regular business hours on the day before the election**

05/17/2010 Deadline for county board of election commissioners to designate a suitable person or persons to deliver ballots to polls

Ark. Code Ann. § 7-5-211(a)(1)(A)

- **1 day before the nonpartisan judicial general election**

05/17/2010 Deadline for voter to participate in early voting

Ark. Code Ann. § 7-5-418 (a)(1)(A)

- **5:00 pm on the Monday before the election**

05/18/2010 **NONPARTISAN JUDICIAL GENERAL ELECTION**

Polls are open from 7:30 am to 7:30 pm

Ark. Code Ann. § 7-10-102(b)(1), § 7-7-203(b), § 7-5-304

- **Same date, same time, same place as the Preferential Primary Election**

05/18/2010 Deadline for delivery of application for an absentee ballot by an authorized agent of the voter

Ark. Code Ann. § 7-5-404 (a)(2)(iv)

- **By 1:30 p.m. on the day of nonpartisan judicial general election**

05/18/2010 Deadline for the county clerk to receive absentee ballots for the nonpartisan judicial general election (excluding overseas ballots by mail, a designated bearer, an administrator or authorized agent of the voter)

Ark. Code Ann. § 7-5-411(a)

- **Not later than 7:30 p.m. on Election Day**

- 05/18/2010** Deadline for qualified electors and active duty uniformed service personnel to sign, date, postmark, and mail absentee ballot to the county clerk. Must be received by the county clerk by 5:00 p.m. ten days after the election.

Ark. Code Ann. § 7-5-411 (a)(1)(B)(ii)

- **Day of Election**

- 05/18/2010** County board of election commissioners shall post at each polling site the public notice of the election, at least two sample ballots marked with word "SAMPLE" of each ballot style that will be at polling site, two copies of the full text of measures on the ballot, at least two copies of instructions on how to vote, including how to cast a provisional ballot, and instructions on fail-safe voting. General information of voting rights including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights have been violated, general information on federal and state laws regarding acts of fraud and misrepresentation should also be available. Double sided signs containing the words "VOTE HERE" should be posted near each main driveway entrance to the polling site. The polling site should also have one printout from each voting machine showing whether the candidate and question counters register zero.

Ark. Code Ann. § 7-5-202

- **Day of Election**

- 05/18/2010** Deadline for return of all election material from the polls to the county board of election commissioners for the nonpartisan judicial general election

Ark. Code Ann. § 7-5-317(b)

- **Immediately after the close of polls**

- 05/18/2010** County board of election commissioners shall declare and report to the county clerk the preliminary and unofficial results of the nonpartisan judicial general election, including a statement of number of outstanding absentee ballots. Clerk shall immediately transmit declaration to the Secretary of State by the internet website provided by the Secretary of State or by facsimile transmission if it not possible to transmit the results via the internet website.

Ark. Code Ann. § 7-5-701(a)(2)(A)(B)

- **Immediately after the count of the vote is complete**

- 05/20/2010** Earliest time for county board of election commissioners to meet to canvass returns, declare, and certify the results of the nonpartisan judicial election providing that there are no outstanding overseas absentee ballots. County

board shall deposit certified copies of the abstracts of the returns of the election. Meeting held at 5:00 p.m. unless otherwise specified.

Ark. Code Ann. §7-5-701(c)(1), § 7-7-203 (e), § 7-7-309

- **48 hours after the election and not later than the 10th calendar day after the Preferential Primary election**

05/28/2010 Deadline for county clerks to receive absentee ballots from uniformed service personnel serving in active duty and from voters outside the United States for the nonpartisan judicial general election

Ark. Code Ann. § 7-5-411 (a)(1)(B)(ii)

- **5:00 p.m. ten calendar days after the date of the nonpartisan judicial general election**

05/28/2010 Deadline for county board of election commissioners to meet and canvass returns and certify the nonpartisan judicial general election results if there were any outstanding overseas absentee ballots. Meeting shall be held at 5:00 p.m. unless otherwise specified.

Ark. Code Ann. § 7-7-203(e)

- **10 days after the nonpartisan judicial general election**

June, 2010

06/02/2010 Deadline for each county board of election commissioner following any regularly scheduled preferential primary election, general election, or statewide special election, to file an affidavit, under the signature of all three commissioners or individually, with the State Board of Election Commissioners in a form approved by the state board stating his or her compliance with all duties and responsibilities of the county election commissioner

Ark. Code Ann. § 7-5-707

- **15 days after the election**

06/17/2010 Final report** of contributions and expenditures due from candidates for District Judge for general election

If the campaign committee of an opposed candidate filed a pre-election report for the general election and the candidate is not involved in a general election runoff, final report for general election covers period May 9 through the date the report is filed.

If the campaign committee of an opposed candidate filed a pre-election report for the general election and the candidate is involved in a general election runoff, final report for general election covers period May 9-18.

If the campaign committee of an opposed candidate did not file a pre-election report for the general election and the candidate is not involved in a general election runoff, final report for general election covers all campaign activity through the date the report is filed.

If the campaign committee of an opposed candidate did not file a pre-election report for the general election and the candidate is involved in a general election runoff, final report for general election covers all campaign activity through May 18.

** A final report is required regardless of whether a candidate's campaign committee has received contributions or made expenditures in excess of \$500.

06/30/2010 Final report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for general election

If the campaign committee of an opposed candidate filed a pre-election report for the general election and the candidate is not involved in a general election runoff, final report for general election covers period May 9 through the date the report is filed.

If the campaign committee of an opposed candidate filed a pre-election report for the general election and the candidate is involved in a general election runoff, final report for general election covers period May 9-18.

If the campaign committee of an opposed candidate did not file a pre-election report for the general election and the candidate is not involved in a general election runoff, final report for general election covers all campaign activity through the date the report is filed.

If the campaign committee of an opposed candidate did not file a pre-election report for the general election and the candidate is involved in a general election runoff, final report for general election covers all campaign activity through May 18.

If the campaign committee of an unopposed candidate filed an April monthly report, final report for general election covers period May 1 through the date the report is filed.

If the campaign committee of an unopposed candidate did not file an April monthly report (i.e., this is campaign committee's first report), final report

for general election covers all campaign activity through the date the report is filed.

July, 2010

07/15/2010 June monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period May 21-June 30

Ark. Code Ann. § 7-6-207(a)(1)(B)

August, 2010

08/16/2010 July monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period July 1-31

Ark. Code Ann. § 7-6-207(a)(1)(B)

September, 2010

09/15/2010 August monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period of August 1-31

Ark. Code Ann. § 7-6-207(a)(1)(B)

October, 2010

10/15/2010 September monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period of September 1-30

Ark. Code Ann. § 7-6-207(a)(1)(B)

10/26/2010 Pre-election report of contributions and expenditures due for period of October 1-23 (Candidates for District Judge pre-election* report covers period May 19 through October 23)

*A candidate's campaign is not required to file a pre-election report if it has not received contributions in excess of \$500. In calculating the amount of contributions received or expenditures made for the purposes of this exception, the payment of the filing fee from the candidate's personal funds shall not be considered as either a contribution or as an expenditure. Once the \$500 threshold has been met, however, a candidate who has used his or her personal funds to pay the filing fee, is required to report same.

Ark. Code Ann. §§ 7-6-207(a)(1)(C); 7-6-208(a)(1) and 7-6-209(a)(1)

November, 2010

**11/02/2010 GENERAL ELECTION AND NONPARTISAN JUDICIAL
RUNOFF ELECTION**

Ark. Code Ann. § 7-5-102

Polls Open at 7:30 a.m. and close at 7:30 p.m.

Ark. Code Ann. § 7-5-304

December, 2010

12/02/2010 Final Report** of contributions and expenditures due from candidates for District Judge covering period October 24 through the date the report is filed.

12/30/2010 Final Report** of contributions and expenditures due from candidates for Justice of the Supreme Court, Judge of the Court of Appeals, and Circuit Judge covering period October 24 through the date the report is filed.

** A final report is required regardless of whether a candidate's campaign committee has received contributions or made expenditures in excess of \$500.

CAMPAIGN ETHICS

The Arkansas Ethics Commission has jurisdiction over Arkansas's Disclosure Act for Lobbyists and State and Local Officials and the Arkansas Standards of Conduct and Disclosure Act for Candidates and Political Campaigns. It has the authority to issue advisory opinions and investigate alleged violations of campaign financing. Penalties for violating these acts include a public letter of caution or warning, fines up to \$1,000 or imprisonment for up to one year. Ark. Code Ann. §§ 7-6-217, 7-6-218.

The Arkansas Code of Judicial Conduct serves as a guide for the conduct of judges. Although judges should consider all provisions of the Code when dealing with campaign issues, Canon 4 specifically addresses political activities. Canon 4.1 (A) (13), states that:

“A judge or judicial candidate shall not in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.”

Other campaign issues addressed by Canon 4 include the candidate's relationship to and activity in a political party and the candidate's responsibility to oversee and limit the campaign practices of employees. Judge-candidates involved in contested elections must also be especially sensitive to the rules of disqualification found in Canon 2.11.

Arkansas Code Annotated § 7-7-305 addresses the issue of the use of nicknames and titles on the ballot.

The Judicial Ethics Advisory Committee was created to give advisory opinions to elected officials, judicial officers, and candidates for judicial office concerning the compliance of their future conduct with the Arkansas Code of Judicial Conduct. Requests for advisory opinions must be made in compliance with the Procedural Rules for the Arkansas Judicial Ethics Advisory Committee. A copy of the procedural rules is found on page 44.

The Judicial Ethics Advisory Committee has issued several advisory opinions under the Code of Judicial Conduct regarding appropriate conduct during judicial campaigns. It should be noted that a revised Code of Judicial Conduct was adopted in July of 2009. Although the following opinions may contain relevant information, the judicial candidate must be mindful that the rationale used by the Committee may be based upon a previous version of the Code.

Advisory Opinion #93-04 stated that it is a violation of Canon 5C (2) of the Arkansas Code of Judicial Conduct for judicial campaign surplus funds to exist.

Advisory Opinion #93-07 clarified Opinion #93-04 by stating that all campaign surplus funds "without exception or exclusion, including the time of its accumulation, or variance with legislative acts, or other rule of law" must be returned to the contributor or turned over to the State Treasurer.

Advisory Opinion #94-02 advised a municipal judge that he should recuse whenever an attorney who is opposing the judge for re-election appears before the judge.

Advisory Opinion #94-05 concluded that a judge must act *sua sponte* on the issue of disqualification, and is not permitted to preside until a party objects.

Advisory Opinion #94-06 stated that a retired judge can participate in judicial campaigns to the same extent, and with the same limitations, as any other attorney.

Advisory Opinion #94-07 addressed whether a judge who is seeking re-election must disqualify himself when a party in a contested proceeding is represented by a declared candidate for the judge's position. The Committee cited the doctrine of necessity which provides that, despite compelling reasons for disqualification, recusal is not required if no mechanism exists for transfer of the matter to another court or appointment of a substitute judicial officer. The doctrine does not necessarily mean that a judge may preside in every instance in which the judicial challenger appears before him/her. Such matters, though, are left to the evaluation of the judge.

Advisory Opinion #95-04 stated that a candidate may not ask a landowner for permission to place a campaign sign on his property. It said that a candidate may write letters to members of the electorate giving information about the candidate's background, the reasons for seeking the office, and the candidate's plan for judicial office. The letters may ask for suggestions, advice, and the encouragement, vote, and support of the recipient. They may not request publicly stated support.

Advisory Opinion #99-08 stated that a Court of Appeals judge could send a letter to selected residents of the district that elected him to inform them that there are two positions from the district. While the letter comes very close to being a political letter, its primary purpose is informative and it does not fall within the prohibited political activity addressed in Canon 5.

Advisory Opinion #2000-11 stated that neither Arkansas law nor the Code of Judicial Conduct prohibits a person who practices law as an assistant city attorney from one city from being a part-time municipal judge in another city. That person, however, should be very sensitive to the fact that conflicts can and will occur and should be mindful of numerous provisions of the Code that would be applicable. A continuing part-time municipal judge must make the judicial office first in service and priority.

Advisory Opinion #2001-05 stated that Canon 5C (2) is applicable to nonpartisan judicial elections and, therefore, fund raising may not begin until 180 days prior to the May 2002 election.

Advisory Opinion #2002-03 stated that a judicial candidate who has served for six years as part-time city court judge may refer to self in campaign materials as "judge."

Advisory Opinion #2005-08 stated that a former judge may not refer to himself or herself as “judge” in a campaign logo or sign or other campaign material.

Advisory Opinion #2006-01 stated that the Arkansas District Judges Council should not make contributions to a candidate for political office.

The full text of Canon 4, which replaced prior Canon 5 effective July 1, 2009, follows:

CANON 4. A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

RULE 4.1 Political and Campaign Activities of Judges and Judicial Candidates in General

(A) Except as permitted by law, or by Rules 4.2, 4.3, and 4.4, a judge or a judicial candidate shall not:

- (1) act as a leader in, or hold an office in, a political organization;
- (2) make speeches on behalf of a political organization;
- (3) publicly endorse or oppose a candidate for any public office;
- (4) solicit funds for, pay an assessment to, or make a contribution to a political organization or a candidate for public office;
- (5) [Reserved]
- (6) publicly identify himself or herself as a candidate of a political organization;
- (7) seek, accept, or use endorsements from a political organization;
- (8) personally solicit or accept campaign contributions other than through a campaign committee authorized by Rule 4.4;
- (9) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others;
- (10) use court staff, facilities, or other court resources in a campaign for judicial office;
- (11) knowingly, or with reckless disregard for the truth, make any false or misleading statement;

(12) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court; or

(13) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

(B) A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A).

COMMENT

GENERAL CONSIDERATIONS

[1] Even when subject to public election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates, taking into account the various methods of selecting judges.

[2] When a person becomes a judicial candidate, this Canon becomes applicable to his or her conduct.

PARTICIPATION IN POLITICAL ACTIVITIES

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although judges and judicial candidates may register to vote as members of a political party, they are prohibited by paragraph (A) (1) from assuming leadership roles in political organizations.

[4] Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, respectively, to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 1.3. These Rules do not prohibit candidates from campaigning on their own behalf, or from endorsing or opposing candidates for the same judicial office for which they are running. See Rules 4.2(B) (2) and 4.2(B) (3).

[5] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no “family exception” to the prohibition in paragraph (A)(3) against a judge or candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with, a family member's political activity or campaign for public office.

[6] Judges and judicial candidates retain the right to participate in the political process as

voters in both primary and general elections. Judges are permitted to request a ballot in a party's primary without violating this Code.

[6A] Judges are permitted to attend or purchase tickets for dinners or other events sponsored by a political organization.

STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE

[7] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Paragraph (A)(11) obligates candidates and their committees to refrain from making statements that are false or misleading, or that omit facts necessary to make the communication considered as a whole not materially misleading.

[8] Judicial candidates are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. For example, false or misleading statements might be made regarding the identity, present position, experience, qualifications, or judicial rulings of a candidate. In other situations, false or misleading allegations may be made that bear upon a candidate's integrity or fitness for judicial office. As long as the candidate does not violate paragraphs (A) (11), (A) (12), or (A) (13), the candidate may make a factually accurate public response. In addition, when an independent third party has made unwarranted attacks on a candidate's opponent, the candidate may disavow the attacks, and request the third party to cease and desist.

[9] Subject to paragraph (A) (12), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against him or her during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

[10] Paragraph (A) (12) prohibits judicial candidates from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate, or rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter.

PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

[11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

[12] Paragraph (A)(13) makes applicable to both judges and judicial candidates the prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[13] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result.

[13A] Before speaking or announcing personal views on social or political topics in a judicial campaign, candidates should consider the impact of their statements. Such statements may suggest that the judge lacks impartiality. See Rule 1.2. They may create the impression that a judge has or manifests bias or prejudice toward individuals with contrary social or political views. See Rule 2.3. Public comments may require the judge to disqualify himself or herself when litigation involving those issues come before the judge. See Rule 2.11. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

[14] A judicial candidate may make campaign promises related to judicial organization, administration, and court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A candidate may also pledge to take action outside the courtroom, such as working toward an improved jury selection system, or advocating for more funds to improve the physical plant and amenities of the courthouse.

[15] Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Paragraph (A) (13) does not specifically address judicial responses to such inquiries. Depending upon the wording and format of such questionnaires, candidates' responses might be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating paragraph (A)(13), therefore, candidates who respond to media and other inquiries should also give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially if elected. Candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality, or that it might lead to frequent disqualification. See Rule 2.11.

RULE 4.2 Political and Campaign Activities of Judicial Candidates in Public Elections

(A) A judicial candidate in a public election shall: (1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary; (2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction;

(3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.4, that the candidate is prohibited from doing by Rule 4.1.

(B) A judicial candidate in a public election may, unless prohibited by law, and not earlier than 365 days before the first applicable election:

(1) establish a campaign committee pursuant to the provisions of Rule 4.4; (2) speak on behalf of his or her candidacy through any medium, including but not limited to advertisements, websites, or other campaign literature; (3) [Reserved] (4) attend or purchase tickets for dinners or other events sponsored by a political organization; (5) seek, accept, or use endorsements from any person or organization other than a partisan political organization; and (6) [Reserved].

(C)[Reserved].

COMMENT [1] Paragraph (B) permits judicial candidates in public elections to engage in some political and campaign activities otherwise prohibited by Rule 4.1. Candidates may not engage in these activities earlier than 365 days before the first applicable election. See definition of “judicial candidate,” which provides that a person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election authority, or authorizes or engages in solicitation or acceptance of contributions or support. This rule does not prohibit private conversations with potential supporters by a potential candidate as part of an effort to “test the waters” for a future candidacy. It does prohibit establishing a campaign committee earlier than 365 days before the election date.

[2] Despite paragraph (B), judicial candidates for public election remain subject to many of the provisions of Rule 4.1. For example, a candidate continues to be prohibited from soliciting funds for a political organization, knowingly making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. See Rule 4.1(A), paragraphs (4), (11), and (13).

[3][Reserved]

[4] In nonpartisan elections, paragraph (B) (5) prohibits a candidate from seeking, accepting, or using nominations or endorsements from a partisan political organization.

[5] Subject to the 365 day limitation, judicial candidates are permitted to attend or purchase tickets for dinners and other events sponsored by political organizations. (Cf. Rule 4.1, Comment 6A, Judges are permitted to attend or purchase tickets for dinners or other events sponsored by a political organization.)

[6][Reserved]

[7][Reserved]

RULE 4.3 Activities of Candidates for Appointive Judicial Office

A candidate for appointment to judicial office may: (A) communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and (B) seek endorsements for the appointment from any person or organization other than a partisan political organization.

COMMENT [1] When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.1(A) (13).

RULE 4.4 Campaign Committees

(A) A judicial candidate subject to public election may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law.

(B) A judicial candidate subject to public election shall direct his or her campaign committee:

(1) to solicit and accept only such campaign contributions as are permitted by state law.

(2) not to solicit or accept contributions for a candidate's current campaign more than 180 days before the applicable election, nor more than 45 days after the last election in which the candidate participated; and

(3) to comply with all applicable statutory requirements for disclosure and divestiture of campaign contributions.

(C) Any campaign fund surplus shall be returned to the contributors or turned over to the State Treasurer as provided by law.

COMMENT [1] Judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. See Rule 4.1(A) (8). This Rule recognizes that in many jurisdictions, judicial candidates must raise campaign funds to support their candidacies, and permits candidates, other than candidates for appointive judicial office, to establish campaign committees to solicit and accept reasonable financial contributions or in-kind contributions.

[2] Campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. Candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their campaign committees.

[2A] The forty-five day post-election restriction applies both to contested and non-contested elections. Once a candidate's campaign has ended, the candidate should only raise funds for 45 more days. For example, if three candidates participate in a judicial election, the candidate who is eliminated may raise funds for only an additional 45 days. However, the two

remaining candidates may continue to raise funds through the runoff election and 45 days thereafter.

[3] At the start of a campaign, the candidate must instruct the campaign committee to solicit or accept only such contributions as are reasonable in amount, appropriate under the circumstances, and in conformity with applicable law.

[3A] To reduce potential disqualification and to avoid the appearance of impropriety, judicial candidates should, as much as possible, not be aware of those who have contributed to the campaign.

RULE 4.5 Activities of Judges Who Become Candidates for Nonjudicial Office

(A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office, unless permitted by law to continue to hold judicial office.

(B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.

COMMENT [1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office. Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The potential for misuse of the judicial office, and the political promises that the judge would be compelled to make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate. [2] The “resign to run” rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote his or her candidacy, and prevents post-campaign retaliation from the judge in the event the judge is defeated in the election. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the “resign to run” rule.

APPLICATION

The Application section establishes when the various Rules apply to a judge or judicial candidate.

I. APPLICABILITY OF THIS CODE

(A) The provisions of the Code apply to all full-time judges. Parts II through V of this section identify those provisions that apply to four distinct categories of part-time judges. The four categories of judicial service in other than a full-time capacity are necessarily defined in general terms because of the widely varying forms of judicial service. Canon 4 applies to judicial candidates.

(B) A judge, within the meaning of this Code, is anyone who is authorized to perform judicial functions, including an officer such as a, magistrate, special master, referee, or

member of the administrative law judiciary.

COMMENT

[1] The Rules in this Code have been formulated to address the ethical obligations of any person who serves a judicial function, and are premised upon the supposition that a uniform system of ethical principles should apply to all those authorized to perform judicial functions.

[2] The determination of which category and, accordingly, which specific Rules apply to an individual judicial officer, depends upon the facts of the particular judicial service.

[3] In recent years many jurisdictions have created what are often called “problem solving” courts, in which judges are authorized by court rules to act in nontraditional ways. For example, judges presiding in drug courts and monitoring the progress of participants in those courts’ programs may be authorized and even encouraged to communicate directly with social workers, probation officers, and others outside the context of their usual judicial role as independent decision makers on issues of fact and law.

II. [Reserved]

III. CONTINUING PART-TIME JUDGE

A judge who serves repeatedly on a part-time basis by election or under a continuing appointment, including a retired judge subject to recall who is permitted to practice law (“continuing part-time judge”),

(A) is not required to comply:

(1) with Rules 2.10(A) and 2.10(B) (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or

(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.14 (Reimbursement of Expenses and Waivers of Fees or Charges), 3.15 (Reporting Requirements); and

(B) shall not practice law in the court on which the judge serves, shall not appear in any criminal matter in the county in which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

COMMENT

[1] When a person who has been a continuing part-time judge is no longer a continuing part-time judge, including a retired judge no longer subject to recall, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding

related thereto only with the informed consent of all parties, and pursuant to any applicable Arkansas Rules of Professional Conduct.

[2A] Paragraph (B) does not, as a general rule, prohibit a continuing part-time judge from practicing law. However the position of a judge in presiding over a criminal matter and then appearing as a criminal defense attorney in a court of general jurisdiction and opposing that same prosecutor creates an appearance of impropriety, even when the proceedings are separate. Accordingly, continuing part time judges are prohibited from appearing in any criminal matter in the county where the judge serves, regardless of how the criminal matter arises.

[3A] Because the position of the judge is paramount to the judge's private law practice, the judge should be particularly sensitive to conflicts that may arise when the judge presides over matters involving particular attorneys and then, in his or her private law practice, appears in adversary proceedings in a court of general jurisdiction opposing the same attorneys who appear before the judge. Opposing counsel may be hampered in vigorous advocacy against an attorney who wears judicial robes and presides over cases involving that counsel. The primacy of judicial service and the obligation to avoid even the appearance of impropriety mandate caution in accepting civil cases in disputed matters.

IV. PERIODIC PART-TIME JUDGE

A periodic part-time judge who serves or expects to serve repeatedly on a part-time basis, but under a separate appointment for each limited period of service or for each matter,

(A) is not required to comply:

(1) with Rule 2.10 (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or

(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.13 (Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value), 3.15 (Reporting Requirements), 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), and 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office); and

(B) shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

V. PRO TEMPORE PART-TIME JUDGE

A pro tempore part-time judge who serves or expects to serve once or only sporadically on a part-time basis under a separate appointment for each period of service or for each case heard is not required to comply:

(A) except while serving as a judge, with Rules 1.2 (Promoting Confidence in the Judiciary), 2.4 (External Influences on Judicial Conduct), 2.10 (Judicial Statements on Pending and Impending Cases), or 3.2 (Appearances before Governmental Bodies and Consultation with Government Officials); or

(B) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.6 (Affiliation with Discriminatory Organizations), 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.13 (Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value), 3.15 (Reporting Requirements), 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), and 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office).

VI. TIME FOR COMPLIANCE

A person to whom this Code becomes applicable shall comply immediately with its provisions, except that those judges to whom Rules 3.8 (Appointments to Fiduciary Positions) and 3.11 (Financial, Business, or Remunerative Activities) apply shall comply with those Rules as soon as reasonably possible, but in no event later than one year after the Code becomes applicable to the judge.

COMMENT

[1] If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in Rule 3.8, continue to serve as fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Rule 3.11, continue in that activity for a reasonable period but in no event longer than one year.

PROCEDURAL RULES FOR THE ARKANSAS JUDICIAL ETHICS ADVISORY COMMITTEE

Rule 1. Judicial Ethics Advisory Committee -- Organization.

Pursuant to Section 5 of Act 791 of 1991 a Judicial Ethics Advisory Committee is hereby created to give advisory opinions to elected officials, judicial officers and candidates for judicial office seeking opinions concerning the compliance of an intended, future course of conduct with the Arkansas Code of Judicial Conduct. The Committee, appointed by the Judicial Discipline & Disability Commission, shall consist of no more than two retired justices or judges and one attorney who is a member of the Arkansas Bar and has never been a publicly elected judicial officer. Committee members may be reappointed and shall serve for three-year terms from date of appointment except that to achieve staggered terms, the first two appointed retired judges shall draw for which one shall serve for three years and which one shall serve for one year. The first appointed attorney shall serve for a two-year term. Vacancies on the committee for an unexpired term shall be filled for the remainder of the term. No member shall serve simultaneously on the Judicial Ethics Advisory Committee and the Judicial Discipline & Disability Commission. Members of the Committee shall be reimbursed their actual and necessary expenses incurred in the discharge of their official duties by the Judicial Discipline & Disability Commission. A chair shall be elected by the Committee members. The Committee may promulgate additional rules of procedure not inconsistent with these rules.

Rule 2. Eligibility for Requesting Advisory Opinions and Submissions.

A request for a judicial ethics advisory opinion shall be directed to the Executive Director of the Judicial Discipline & Disability Commission, who shall forward the request to the committee. Requests will be accepted only from elected officials, judicial officials (justices or judges) and publicly declared candidates for judicial office.

Rule 3. Request for Advisory Opinions -- Contents.

Requests for judicial ethics advisory opinions shall relate to prospective conduct only and shall contain a complete statement of all facts pertaining to the intended conduct together with a clear, concise question of judicial ethics. The identity of the individual, whose proposed conduct is the subject of the request, shall be disclosed to the Committee. The requesting individual shall include with the request a concise memorandum setting forth his or her own research and conclusions concerning the question and the statement that the matter is not the subject of a pending disciplinary proceeding. Requests shall not be accepted or referred for opinion unless accompanied by this memorandum.

Rule 4. Scope of and Procedure for Issuance of Advisory Opinions.

Advisory opinions shall set forth the facts upon which the opinion is based. Advisory opinions shall address only whether an intended, future course of conduct violates the Arkansas Code of Judicial Conduct and shall provide an interpretation of this Code with regard to the factual situation presented. The opinion shall not address issues of law nor shall it address the ethical propriety of past or present conduct. The identity of the

requesting person shall be disclosed in the opinion. If the individual facts and circumstances provided are sufficient in detail to enable the Committee to render an advisory opinion, the Committee shall request supplementary information from the requesting individual to enable it to render such opinion. If such supplementary information is still insufficient or is not provided, the Committee shall so state and shall not render an advisory opinion based upon what is considered to be insufficient detail. The committee may respond to requests for an advisory opinion by referring the requesting individual to a prior opinion and by so doing need not publish a new advisory opinion. Two members of the Committee shall constitute a quorum for the transaction of any Committee business, including the issuance of an advisory opinion, whether in a meeting or by conference call or by circulated writing.

Rule 5. Distribution and Publication of Advisory Opinions.

The Executive Director of the Judicial Discipline & Disability Commission shall provide a copy of each advisory opinion to the requesting party, the Chief Justice of the Supreme Court, the Judicial Discipline & Disability Commission, the Supreme Court library, and two law school libraries and the American Judicature Society. The Executive Director of the Judicial Discipline & Disability Commission shall keep the original opinion in a permanent file. Copies of the opinion will also be published in a publication generally available to judicial officials such as the Supreme Court advance sheets.

Rule 6. Binding Effects of Advisory Opinions.

All opinions shall be advisory in nature only. No opinion shall be binding on the Judicial Discipline & Disability Commission or the Supreme Court in the exercise of their judicial discipline responsibilities. However, compliance by the requesting individual with a written advisory opinion of the Committee is evidence of a good faith effort to comply with the Arkansas Code of Judicial Conduct. An opinion given to a requesting individual in an oral conversation is not binding on the Committee nor evidence of a good faith effort to comply with the Arkansas Code of Judicial Conduct.